



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

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In re Application of

Sergei Mikhailovich SAFRONOV et al

Art Unit: 3713

S. N. 09/601,913

Examiner: A. P. Rada

International S.N.: PCT/RU99/00144

Filed: August 8, 2000

International Filing Date: April 29, 1999

For: METHOD FOR PLAYING A SPACE GAME
AND DEVICES FOR REALIZING THIS METHOD

PETITION TO REVIVE APPLICATION AND TO REINSTATE APPEAL AND TO
ENTER APPEAL BRIEF - UNINTENTIONAL

and

REQUEST FOR REFUND

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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OFFICE OF PETITIONS

Sir:

Applicants respectfully petition to revive the application
and to reinstate the appeal and to enter the appeal brief.

A further revised appeal brief is enclosed herewith adding
further arguments related to the grouping of the claims and
deleting all mention of the alleged non-appealable issue which the
Examiner required to be removed.

The entire delay was unintentional. A petition fee of
\$650.00 for revival of an unintentionally abandoned application is
enclosed.

Applicants respectfully request refund of the petition fee
because of the following reasons. Applicants timely filed a
notice of appeal, and appeal brief. The U.S. Patent and Trademark

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Office required a corrected appeal brief, asking for correction of grouping of the claims issues and for cancellation of an issue from the brief. Applicants timely filed a correct brief addressing the issue of grouping of the claims, and indicated that the issue was canceled, but under protest, as applicants believed it should have been decided with the rest of the appeal as applicants felt the issues were related to the reasons for the rest of the appealed issues.

In response, the U.S. Patent and Trademark Office sent a communication dated March 25, 2003, dismissing the appeal and indicating that the application was now abandoned.

The Examiner indicates that the appeal was dismissed because:

Appellant has filed an amended or corrected brief which did not overcome all of the reasons for [sic] non-compliance of which appellant was notified. See MPEP 1206 and 37 CFR 1.192(d). Specifically, the corrected brief file [sic] January 13, 2003 once again contains a defective grouping of claims. For instance, appellant states that claims 2-11 and 14 and 15 do not necessarily stand or fall together with claims 1, 12, 13 and 16, yet provides absolutely no reasons for why these two groups should not stand or fall together. Appellant makes a statement in the corrected brief at page 5, line 13 through page 6, line 2 that on its [sic] face may appear to be a reason in support of the statement that the claims do not stand or fall together, yet

makes absolutely not [sic] substantive argument to that affect [sic]. Further, appellant has not removed the non-appealable issue of the drawing objection from the appeal brief..[sic]

Applicant respectfully submits that the portion that the Examiner admits "on its face" appears to be a reason in support should be sufficient. If it appears on its face to be a reason, then it should be sufficient to be passed to the appeal board. If it is a reason on its face, that should be all that is required. Whether the Examiner agrees with the substance or effectiveness of the argument is not a reason to dismiss the appeal, since the Examiner admits that it appears to be an argument on its face. If it appears on its face to be an argument, then it is an argument. Whether it is an effective argument is not relevant to whether the brief meets the minimum standards to be accepted. In any event, the replacement brief enclosed herewith adds further argument which is believed should be acceptable to the Examiner.

The portion of applicant's brief which the Examiner refers to above is as follows:

Applicant's reason for this is that the Examiner specifically raises issues with particular phrases in claims 1, 12, 13 and 16. Claims 2-11, 14 and 15 then each separately add further definitions of particular details as to what can be

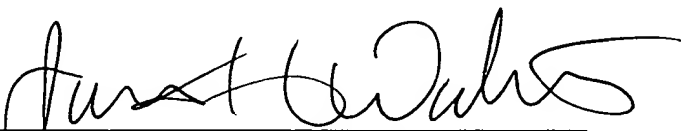
encompassed by these particular claim terms. Thus, even if the terms in claims 1, 12, 13 and 16 were to be held as containing subject matter not in the specification (which point applicant is not conceding) the further definitions added by the claims dependent thereon separately add subject matter sufficient for one skilled in the art to make and/or use the invention. Therefore, it is respectfully submitted that the claims 2-11, 14 and 15 do not stand or fall together and do not stand or fall with claims 1, 12, 13 and 16.

It is respectfully submitted that this is a sufficient substantive argument to meet the requirements of the rules related to appeal briefs. In any event, the second revised appeal brief included herewith adds still further arguments, even though applicants believe them to not be needed.

The Examiner also stated that applicants did not cancel non-appealable matter. Applicants did state that the matter was canceled, but explained their reasons as to why applicants felt that the matter should have been considered. It is respectfully submitted that this was sufficient to meet the Examiner's requirement to cancel the matter, and what remained was applicants' discussion as to why the matter should not have been required to have been canceled from the brief.

A credit card payment form for \$650.00 for the petition fee is enclosed herewith. Applicants respectfully request a refund of the petition fee for the reasons noted above.

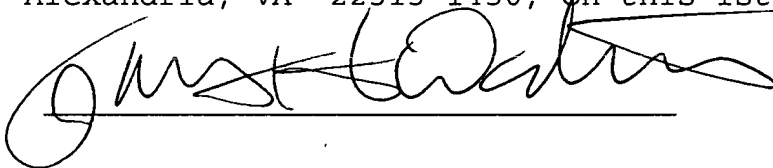
Respectfully submitted,


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Certificate of Mailing

I hereby certify that this correspondence is being deposited as first class mail with the United States Postal Service in an envelope addressed to the Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 1st day of May, 2003.



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